

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

SHERIAN L. W.,

Case No. 6:22-cv-01794-AR

Plaintiff,

**ORDER GRANTING FEES UNDER
42 U.S.C. § 406(b)**

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

ARMISTEAD, Magistrate Judge

Plaintiff Sherian L. W. (last name omitted for privacy) brought this action seeking review of the Commissioner's final decision denying her application for disability benefits under the Social Security Act.¹ On August 29, 2023, the court entered an Order granting the parties' stipulated motion to reverse the Commissioner's decision and remand the action for further administrative proceedings. On remand, the Administrative Law Judge entered a decision fully

¹ The parties have consented to jurisdiction by magistrate judge as permitted by [28 U.S.C. § 636\(c\)\(1\)](#).

favorable for plaintiff. (ECF No. 18-4.) Previously, the court awarded \$3,437.29 to plaintiff's counsel under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. (ECF No. 17.)

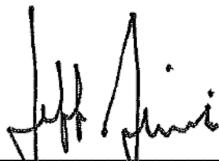
Plaintiff's counsel, Kevin Kerr, now seeks approval of \$20,423.43 in attorney fees, under 42 U.S.C. § 406(b), which represents 25 percent of plaintiff's past-due benefits. (Pl.'s Mot. for Attorney Fees, ECF No. 18.) During conferral on this motion, the Commissioner did not support or oppose the fee request yet reserved the right to respond separately. (*Id.* at 1.) The Commissioner has not timely filed an objection or response.

The court has reviewed the record in this case, the motion, and the supporting materials, including the award of benefits, the fee agreement with counsel, and the recitation of counsel's hours and services. Applying the standards set by *Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002), the court finds that the requested fees are reasonable.

Accordingly, plaintiff's Motion for Attorney Fees (ECF No. 18) is GRANTED, and Mr. Kerr is allowed an attorney's fee under 42 U.S.C. § 406(b), in the amount of \$20,423.43, to be paid in accordance with agency policy. Mr. Kerr must refund the amount of \$3,437.29 already received under the EAJA.

Any funds withheld by the Commissioner in anticipation of an order under 42 U.S.C. § 406(b), less an administrative assessment under 42 U.S.C. § 406(d), may be paid to Kevin Kerr, using the information on file with the Agency, consistent with this order.

DATED: December 6, 2024.



JEFFREY ARMISTEAD
United States Magistrate Judge